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April 17, 2015

U.S. Army Corps of Engineers, Alaska District
ATTN: CEPOA-PM-C-PL
P.O. Box 6898
JBER, AK 99506-0898
akregports@usace.army.mil

RE: Alaska Deep-Draft Arctic Port System Draft Interim Feasibility Report and Environmental Assessment

To Whom It May Concern,

Kawerak is the regional non-profit tribal consortium for the Bering Strait region. Kawerak is providing comment to the USACE for the above referenced report and environmental assessment per the USACE's response in a letter from Michael Noah, Chief, Environmental Resources Section, which Kawerak received on March 24, 2015. Kawerak appreciates the opportunity to make additional comments to the USACE's Interim Feasibility Report and Environmental Assessment.

In September 2014 Kawerak hosted a gathering in Nome called the Bering Strait Voices on Arctic Shipping which was an unprecedented gathering of local residents and ocean policy experts. Below are quotes from that gathering.

"We need more emergency response capability at the local level"

"Need improved communication infrastructure and equipment to be more effective in emergency response at the local level"

A full report is available upon request and will be e-mailed to the comment address.

Public Notice Requirement in Rulemaking, and Correspondence

In a February 1, 2015 article published in the Petroleum News Lorraine Cordova of the USACE indicated that the USACE made a tentatively selected plan for a deep draft port at Nome but that no Environmental Assessment or Environmental Impact Statement was prepared at that time and would not be prepared for some weeks. For future plan documents connected to the Alaska Deep Draft Port, Kawerak recommends that the USACE ensure public notices are timely when news releases are made.

In Appendix E, the USACE included letters of support from Vitus Marine, Sitnasuak Native Corporation, Nome Eskimo Community, Knik Construction, Bering Straits Native

Corporation, Bering Marine, and Alaska Logistics, and indicated those letters of support are for the deep draft port. Those letters are not written from that perspective. Those letters of support are written in support of the Nome's Mid Dock Project. Kawerak recommends USACE indicate those support letters are for the mid dock project.

Cumulative Impacts

A deep draft port at its present expected magnitude of construction at Nome is likely to have significant cumulative impacts. The cumulative impacts section in the main report is only two paragraphs and is brief in consideration of the fact that the USACE already indicated on page 115 of the main report that there would be a negative impact to cultural identity. In 2005, the Alaska District approved a multimillion dollar project to relocate Nome's entrance channel. The project included building a new breakwater, adding a spur to the end of the causeway, building a sediment trap, and replacing the existing causeway bridge. At that time a significant archeological find was made and consequently the USACE has well documented experience with the cumulative effects of port development. Because of the USACE's experience at the port site and the close proximity of the port to the Eskimo Cemetery the USACE is required by NEPA to undertake a more significant investigation of the cumulative impacts. In the "Environmental Assessment and Finding of No Significant Impact, Maintenance Dredging Nome Harbor Entrance Channel Nome, Alaska", dated October 2012, the USACE indicated on page 19 & 20 the following in its cumulative impacts section:

Cumulative effects are defined as, "The impact on the environment which results from the incremental impact on an action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions" (40 Code of Federal Regulations, Section 1508.7). Cumulative impacts can result from individually minor, but collectively significant actions taking place over a period of time. The following is a non-inclusive list of the project related past and present actions that have occurred within and adjacent to the project area. Together these actions have resulted in the existing conditions of the project area:

- 1919 – Construction of the original project begins.*
- 1922 – Dredging of the original channel and basin completed.*
- 1923 – Construction of original jetties and revetments completed.*
- 1949 – Seawall and turning basin extension construction initiated. First recorded maintenance dredging.*
- 1951 – Turning Basin expanded.*
- 1964 – Records indicate annual maintenance dredging has been occurring and is on-going.*
- 1979 – Maintenance dredging continues.*
- 1989 – Annual maintenance dredging halted for 3 years due to environmental concerns (naturally occurring arsenic hotspot found).*

2000 – Annual maintenance dredging.
2001 – Annual maintenance dredging and emergency dredging occurs.
2002 – 2004 – Annual maintenance dredging.
2005 – Annual maintenance dredging, original entrance channel filled in, new entrance channel excavated.
2006 – Annual maintenance dredging.
2007 – Annual maintenance dredging and east sediment trap dredged.
2008 – 2012 – Annual maintenance dredging.
Some reasonably foreseeable future actions considered in this analysis are identified below. The listing includes relevant foreseeable actions within and adjacent to the project area including those by the Corps, other Federal agencies, state and local agencies, and private and commercial entities:

- Continued operation and maintenance of the harbor and entrance channel to the various design depths plus 1 foot of over-depth.
- Continued use and development of the project area, including areas adjacent to the harbor for commercial, industrial, and residential uses in proportion to potential future increases in population within the Nome area.
- Continued operation and maintenance of private berths and terminals associated with the harbor.

The USACE clearly identified progressive federal actions going back to 1919 that may have had an impact on cultural identity. Kawerak agrees with the USACE that a deep draft port of the scale identified in the EA will have a lasting cultural impact. The USACE identifies throughout the report and economics section that a deep draft port is necessary for support of oil and gas activities. The oil and gas industry are major drivers of the US economy and it is likely that impacts to culture will occur as support infrastructure is developed for oil and gas activities. For the reasons stated above Kawerak recommends USACE issue an Environmental Impact Statement and recognize potential adverse and cumulative impacts.

Compatibility

Kawerak is concerned about the compatibility of Port Expansion to continuation of indigenous culture, history, and health of subsistence, and natural resources we depend on. Because the USACE identified in Table 36 that cultural identity will be negatively impacted, Kawerak believes that the USACE cannot issue a Finding of No Significant Impact (FONSI) and is bound by the National Environmental Policy Act (NEPA) to issue an Environmental Impact Statement (EIS) which requires not prejudicing federal decision making and informs the public of suitable alternatives in an unbiased manner. Kawerak recommends the USACE address the adverse impacts we have raised and or mitigation in light of the likelihood that cultural identity will be adversely impacted. Mitigation could include at a minimum interpretive media at the port site, exhibit development in the Nome museum and/or interpretive presentations from the archeological materials from the 2006 excavation.

Negative Cultural Impact and Low and Minority Populations Impacts

On page 115 of the main report the USACE indicated that there would be a negative impact to cultural identity. Because the USACE made that determination the USACE is required by NEPA to undertake an Environmental Impact Statement. NEPA's definitions are included below for the public record.

CEQ NEPA Regulation Section 1508.8 [40 C.F.R. § 1508.8.]

"Effects" include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

Alaska Natives continually must press for rights that have become extinguished under the Alaska Native Claims Settlement Act in order to protect our culture. There have been numerous disproportionate impacts to our culture as a result of development. Kawerak looks forward to future comment periods or lending our traditional knowledge expertise to plan documents.

In the letter from Christopher D. Lestochi, Colonel, U.S. Army Corps of Engineers, District Commander, within the Environmental Assessment the following was noted on an unnumbered page preceding the executive summary:

"Impacts nearly identical to those anticipated with construction of the proposed project have been previously assessed in support of the Corps' 2006 construction of the Nome Harbor entrance's existing configuration."

Kawerak is keenly aware of the impact that the USACE's construction at Nome's harbor entrance had upon culture. At that time an archeological site was destroyed and with the USACE's tentatively selected plan for the deep draft port the USACE will forever change the cultural nature of the area. Kawerak staff and Nome Eskimo Community tribal members

participated in the excavation of the site and assisted USACE Archeologist Ms. Grover in site interpretation. At various times during the excavation there were strong connections between elders, youth and our own history as archeologists, elders, volunteers, and youth excavated layer after layer of history. River and creek mouths have long been important to cultures of this region. They provide freshwater resources and are feeding zones for marine mammals. The destroyed archeological site at the mouth of the Snake River was likely more extensive than is known. USACE has the experience from previous actions which require USACE to issue an EIS and not merely issue an EA and FONSI. Kawerak recommends additional archeological site investigations at the port site as well as mitigation to existing historical sites.

Hydraulics, Appendix A

Kawerak believes the hydraulics impacts are not fully characterized. Areas to the east of Nome have been impacted by continual erosion such as subsistence camps at Fort Davis at the mouth of the Nome River. It is possible that sediment transport is being effectively blocked by the causeway to the Fort Davis area. The USACE has not characterized sediment loss impacts to the Fort Davis area. Most of the lands at Fort Davis are Native Allotments and thus are subject to the Federal Trust obligations. We recommend USACE inform the public of any possible negative impacts to land ownership. Kawerak recommends the USACE undertake additional hydraulics studies east of Nome to at least Fort Davis to address the adverse impact of sediment loss and erosion as a result of the longshore transport.

Additionally, the buildup of sediments on the west end of the causeway are mitigated by annual removal of sands by Bering Straits Native Corporation and Sitnasuak Native Corporation. In the Master Title Plat on the following page Kawerak displays the area immediately west of the causeway which has been conveyed via the Alaska Native Claims Settlement Act to the Sitnasuak Native Corporation via patent #50-2013-0120 and to Bering Straits Native Corporation via patent #50-2013-0121. Those patents authorize their ownership of the lands to the West of the causeway and provide for their legal rights to sell and excavate materials which noted are done annually.

We recommend that based on the USACE's experience from the 2005 and 2006 archeological site destruction, that the USACE include an archeological monitoring cost.

NEPA Correspondence, Appendix F

The USACE and EPA Region 10 signed a memorandum of agreement (MOA) in 2014 which details how the USACE would coordinate with EPA Region 10 on EIS development. In that MOA the parties agreed that the USACE as lead federal agency has the responsibility to develop an EIS according to 40 CFR 1501.5. Kawerak recommends the USACE develop an EIS for the Alaska Deep Draft Port Study per those same regulatory requirements in 40 CFR 1501.5.

Essential Fish Habitat

The near shore areas of Norton Sound are identified as critical nursery areas for Norton Sound Red King Crab. The Alaska Department of Fish and Game enacts subsistence and commercial crab regulations that change from year to year based upon abundance estimates. We recommend in Appendix 1 USACE define the area as essential fish habitat for red king crab.

Conclusion

Kawerak appreciates the Alaska Deep Draft Port Study and recognizes the need for adequate infrastructure. However, additional information is needed to address the potential impacts to the Community of Nome. Kawerak recommends the USACE to undertake an EIS so as not to bias the study.

If you have any questions please feel free to contact Austin Ahmasuk, Marine Advocate at the above address or directly at (907) 443-4368 or e-mail: marine.advocate@kawerak.org.

Thank you for your time and consideration.

Sincerely,
KAWERAK, INC.



Melanie Bahnke, President